

MINUTES OF THE PUBLIC HEARING CONTINUATION
SUDBURY BOARD OF APPEALS
TUESDAY, NOVEMBER 8, 2005

The Board consisted of:

Stephen M. Richmond, Chairman
Jonathan G. Gossels, Acting Clerk
Elizabeth A. Taylor
Jeffrey P. Klofft
Constantine Athanas, Associate

Also: Stephen A. Garanin, Alternate
Nancy G. Rubenstein, Alternate

For the Applicant:

Attorney Joshua M. Fox
Ben Stevens, Old County Road, Trask, Inc., applicant

The hearing was called to order by the Chairman, Mr. Richmond who reported that the purpose for this continuance was to allow the Board to review the proposals received from the consultants and to receive comments from the applicant.

The Board was also in receipt of an email dated October 25, 2005 from Jody Kablack which provided references for all of the consultants.

Mr. Stevens said he reviewed all the proposals and made inquiries into their qualifications. It appeared to him that Edward Marchant and H&H Associates have the most 40B experience. He said he felt most comfortable with Mr. Marchant.

Mr. Richmond said following his review he also had narrowed his focus to Edward Marchant and H&H Associates. He said he would be comfortable with either one.

An issue was raised of a potential conflict of interest as a result of an email dated November 2, 2005 sent to Ms. Kablack from Dick Heaton, H&H Associates in which Mr. Heaton indicated a prior working relationship with Russ Tanner, Rising Tide LLC, who may be working with the developer on this project. However, both Mr. Fox and Mr. Stevens said Mr. Tanner was not working as part of this project team.

Following discussion among the Board, there was agreement that since the Board was comfortable with Mr. Marchant, as was the applicant, the preference would be to select him as the consultant.

A motion was made, seconded and unanimously approved to accept Mr. Marchant's proposal for this project.

Ms. Kablack will contact Mr. Marchant. Mr. Stevens agreed to provide an updated pro forma and to forward a check in the amount of \$10,000 which will be deposited into an escrow account.

It was also agreed that Ms. Kablack will indicate to Mr. Marchant the Board's concern regarding the proposed density of the site and their interest in knowing the minimum density given offsite mitigation which would support the site and still keep it economically viable.

The hearing was continued to January 5, 2006.

Stephen M. Richmond, Chairman

Jonathan G. Gossels, Acting Clerk

Elizabeth A. Taylor

Jeffrey P. Klofft

Constantine Athanas, Associate

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Nancy G. Rubenstein

LAND ROVER METRO WEST, LLC
83 & 103 Boston Post Road
05-37

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The Board consisted of:

Stephen M. Richmond, Chairman
Jeffrey P. Klofft, Clerk
Jonathan G. Gossels
Constantine Athanas

The hearing was continued by the Chairman, Mr. Richmond for the purpose of further discussion of the landscaping issues along the front of the new vehicle storage area at the Land Rover site.

The Board was in receipt of a landscape sketch which was submitted by the applicant. Mr. Fox described the proposed landscaping, which details the species to be provided, which he felt addressed Mr. Gossels' concerns. He said the idea is to try and achieve the same landscaping by using the same plantings as the lower area which is near the Thai restaurant. The proposal is to install these in the spring.

Mr. Gossels felt this plan to be a big improvement and said he was comfortable with it.

Discussion followed on the terms of the permit. Mr. Richmond noted that at the previous hearing, Mr. Athanas had suggested a 2-year renewal could be considered if the Board was comfortable with the landscape plans. All members agreed they were satisfied.

There were no further comments. The hearing was closed.

The following motion was placed and seconded:

MOTION: "To grant Land Rover Metro West, LLC, owner of property, renewal of Special Permit 04-14, granted under the provisions of Section 2230,A,C,Use 12,13,14 of the Zoning Bylaws, for the sale and rental of new and used motor vehicles, for new and used motor vehicle general and body repair, and for new and used motor vehicle light service, property located at 83 & 103 Boston Post Road, Industrial District #4, provided that:

1. Hours of operation shall be Monday through Friday from 7AM-8PM, Saturday, 9AM-5PM, Sunday, Noon to 5PM.
2. No heavy bodywork is allowed on the premises.
3. No fuel storage is allowed on the premises.

LAND ROVER METRO WEST, LLC
83 & 103 Boston Post Road
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4. The premises currently consist of three separate legal parcels spanning the Town of Sudbury and Wayland, MA. The Board makes its findings based upon the applicant's representation that all three parcels comprise the project premises. Certain of the applicant's calculations, specifically lot coverage calculation as required by Section 2600 of the Zoning Bylaws, have been based on the entire lot area of the three parcels combined. As such, the entire area of the three parcels has been essential to the applicant's proposal. All parcels comprising the project area must remain intact and dedicated to the applicant's project and may not be alienated from the project, or otherwise developed in ways that are inconsistent with this decision, without further modification of the Special Permits issued herein by decision of this Board. Notwithstanding the foregoing, the property consisting of 7.77 acres \pm now or formerly of the Evergreen Realty Trust, as shown on the Plan entitled "Plan of Land in Sudbury & Wayland, Massachusetts, Prepared for Foreign Motors West," dated February 28, 2002, prepared by Schofield Brothers of New England, Inc., may be encumbered by a conservation restriction in

accordance with the provisions of M.G.L.,c. 184, Section et seq., or may be conveyed in fee to a conservation organization provided that said parcel shall be used for conservation purposes only.

5. Landscaping and fencing shall be substantially as proposed in the plans entitled "Site Plan," Sheet LP-1, prepared by Rico Associated dated March 12, 2002, as may be modified in accordance with Site Plan Approval by the Board of Selectmen, with ongoing maintenance and replacement of materials as necessary. Additional fencing, consistent with the wood cedar fence on the westerly border, shall be provided in order to screen the adjacent Mass. Highway property.

Landscaping along the front of the new vehicle storage area will be in accordance with the landscape plan submitted by the applicant on November 7, 2002, which is marked as Exhibit #1 and is incorporated and made a part of this decision. Planting shall occur no later than April 30, 2006.

6. Prior to issuance of a Certificate of Occupancy, or applicant's commencement of use of the premises, whichever comes sooner, the applicant shall take such measures so as to legally combine all three lots comprising the project premises into a single parcel, with the exception of the 7.77 acre parcel, which may be alienated in the manner set forth above in Condition 4.

7. No flags, banners, spinners, pennants or other such display banners shall be displayed on the premises without first obtaining the required approvals.

8. All lighting shall be substantially the same as that proposed in the plan entitled "Site Lighting Plan", Sheet SL-1, prepared by Rico Associates, dated March 12, 2002, as may be modified in accordance with Site Plan approval by the Board of Selectmen, and shall be otherwise consistent with the provisions of Section 3427f of the Zoning Bylaws. Lighting shall be extinguished during non-business hours to the greatest extent possible so as to provide minimum lighting for security proposed consistent with adjacent properties.

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9. All car repair and car service work shall be performed inside the buildings on the premises. There shall be no exterior storage of car parts or equipment. No car washing is permitted except for the incidental hand washing of cars with biodegradable soap.

10. The parking and storage of vehicles and the loading of car parts, equipment and other supplies shall be substantially in accordance with Site Layout Plan SP-2, prepared by Schofield Brothers of New England, Inc., dated February 28, 2002, as may be modified in accordance with Site Plan approval by the Board of Selectmen. No parking or storage of vehicles will be allowed at the entrance drive on the north of the building. At no time will cars be allowed to park or load on Boston Post Road (Rt. 20).

11. This permit is non-transferable and will expire in two (2) years on November 8, 2007, and the Board will consider renewal upon receipt of proper application on or before that date."

VOTED: In favor: 5 (unanimous) Opposed: 0

REASONS: The petitioner seeks renewal of a Special Permit to operate a motor vehicle sales and service business which has been in operation for approximately two years. The Board reiterated its concerns with regard to the landscaping of a portion of the site and as a result the petitioner has submitted a landscape plan for that area with plantings to be installed in the Spring of 2006. Those plans have been incorporated into this decision and the permit has been renewed for a two-year period in order to evaluate the status of the landscaping.

Stephen M. Richmond, Chairman

Jeffrey P. Klofft, Clerk

Jonathan G. Gossels

Elizabeth A. Taylor

Nancy G. Rubenstein, Alternate